

PATENT

IN THE U.S. PATENT AND TRADEMARK OFFICE

Application No.: 09/835,376

Filing Date: April 17, 2001

Applicant: David A. JABLOW

Group Art Unit: 2155

Examiner: Shawki S. Ismail

Title: METHODS AND SYSTEMS FOR PROVIDING PERSONALIZED NOTIFICATION

Attorney Docket: 129250-000902/US

**PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION
UNDER 37 C.F.R. §1.137(b)**

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314
Mail Stop PETITION

November 26, 2008

Sir:

I. PETITION TO REVIVE

Applicant hereby petitions for revival of the above-identified application because the Office Action mailed October 4, 2007 ("Office Action") was not discovered or received by the Applicant until after the time period for responding to the Office Action had expired.

The Applicant's attorney, John E. Curtin, hereby submits the following statements in support of this Petition.

A. INITIAL STATEMENT BY APPLICANT'S ATTORNEY IN SUPPORT OF PETITION TO REVIVE

- 1.) The following are the circumstances surrounding the reasons why the Office Action mailed October 4, 2007 was not responded to within the time limits set forth in the Office Action.
- 2.) On July 9, 2007 the Applicant filed an Appeal Brief.
- 3.) On or about September 4, 2008 the Examiner called the Applicant's attorney to inquire into the reasons why the Applicant had not responded to the October 4, 2007 Office Action which contained a "Notification of Non-Compliant Appeal Brief" and set a one month response date of November 4, 2007. Upon checking the docket of Applicant's attorney it was determined that the Office Action had never been received.
- 4.) The Examiner was kind enough to fax a copy of the Office Action to the Applicant's Attorney. Upon review of the Office Action the Applicant's Attorney determined that the Office Action was addressed correctly.
- 5.) On information and belief, the Applicant's attorney believes that the Office Action was lost in the mail.
- 6.) Applicant's Attorney conducted a thorough review of his docketing system. After this review, the Applicant's Attorney determined that although the Office Action was addressed correctly, it was not received by the Applicant's Attorney because no copy of it could be found in the file.
- 7.) A review of Applicant's attorney's docket entries for the time period between October 4 and November 4, 2007 (see attached) does not indicate that a response to the Office Action was ever docketed. For the Office's reference, if the Office Action had been received an entry of "902 Response" or "902" would have appeared on Applicant's Attorney's docket somewhere between October 4 through November 4, 2007 (see for example, October 8, "2042 Final" or October 23 "903 Final 2 mo"). The numbers "902" are the last three numbers of the attorney docket number corresponding to the present application. Because no such entry appears between these dates the Applicant's Attorney concludes that the Office Action was not received by Applicant's Attorney's law firm even though it appears that the Office Action was properly addressed.

**B. SPECIFIC STATEMENT BY APPLICANT IN SUPPORT OF THE
PETITION TO REVIVE**

The Applicant hereby petitions for revival of the above-referenced application. The above-identified application was unintentionally abandoned for failure to timely file a response to the Office Action mailed October 4, 2007. The entire delay in filing the required response, namely the response to the Office Action, from the due date for the response until the filing of this petition under 37 CFR 1.137(b) was unintentional. Thus, the abandonment was unintentional.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

1. Petition Fee

_____ Small Entity - fee \$_____ (37 CFR 1.17(m))
_____ Small Entity Statement enclosed herewith.
_____ Small Entity Statement previously filed.

X Other than Small Entity - fee **\$1,620.00** (37 C.F.R. 1.17(m)). The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment for this fee, or credit any overpayment, to Deposit Account No. 50-3777 as well as for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; **particularly, petition, Response or extension of time fees.**

2. Reply and/or Fee

A Response to the Office Action is also enclosed.

3. Terminal Disclaimer with disclaimer fee

X Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

4. Statement. The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

November 26, 2008
Date:

/John E. Curtin/
CAPITOL PATENT & TRADEMARK LAW
FIRM, PLLC

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